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FISCAL IMPACT STATEMENT

LS 7130
BILL NUMBER: HB 1351

NOTE PREPARED: Jan 28, 2014
BILL AMENDED: Jan 27, 2014

SUBJECT: Welfare Matters; Drug Testing.

FIRST AUTHOR: Rep. McMillin
FIRST SPONSOR: Sen. M. Young

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) Requires the Division of Family Resources (DFR) to establish a statewide program within the Supplemental Nutrition Assistance Program (SNAP) to allow SNAP benefits to be used only for food and beverages that have sufficient nutritional value, as determined by the DFR.
- (3) Requires the Family and Social Services Administration (FSSA) to administer a drug-testing program (program) for individuals who are receiving Temporary Assistance for Needy Families (TANF) assistance or receiving TANF assistance on behalf of a child.
- (4) Establishes requirements for the program and ineligibility penalties.
- (5) Prohibits an individual who is ineligible to receive TANF assistance under the program from receiving assistance on behalf of a child and provides for an exception.
- (6) Requires the FSSA to collect data to assess and avoid discrimination in the program.
- (7) Requires the FSSA to provide information to the Indiana Housing and Community Development Authority (IHCDA) and any division of the FSSA that implements the federal SNAP program concerning an individual who tests positive for controlled substances.
- (8) Requires the Department of Workforce Development (DWD) to submit a report to the Legislative Council and the Unemployment Insurance Oversight Committee concerning certain unemployment topics.

Effective Date: Upon passage; July 1, 2014.

Summary of NET State Impact: This bill could result in a net increase in state expenditures between \$1.18 M and \$1.38 M during FY 2016 and FY 2017. Based on information received from FSSA and certain

assumptions, this bill could: (1) increase FSSA drug-testing costs for individuals who test negative on an initial drug test; (2) increase FSSA administrative expenditures; (3) reduce state TANF expenditures from withheld benefits to finance the costs of drug tests and for individuals who fail an initial test; and (4) increase FSSA computer system costs to track individuals who test positive on drug tests. The net impact over the two-year period is summarized in the table below.

Impact on TANF Expenditures (Expenditure Reductions)	FY 2016	FY 2017	2-Year Total
Drug Testing Costs for Negative Drug Tests	\$247,500	\$124,000	\$371,500
Reduced State TANF Expenditures from Ineligible Individuals	(\$315,000)	(\$206,000)	(\$521,000)
Estimated Administrative Expenditures	\$545,000	\$388,000	\$933,000
Estimated System Costs	\$400,000 to \$600,000	--	\$400,000 to \$600,000
Net Impact	\$0.88 M to \$1.08 M	\$306,000	\$1.18 M to \$1.38 M

The total benefit savings in the table (\$521,000) assumes that in instances where a custodial adult applicant is (1) ineligible for benefits for a 3-month period, no protective payee will be selected and (2) permanently ineligible for benefits, a protective payee will be selected and benefits will still be paid to eligible children.

The state could see additional expenditures to the extent (1) the federal portion of withheld TANF benefits cannot be used to finance the costs of drug tests, (2) drug-testing costs are unrecoverable due to benefit ineligibility.

Explanation of State Expenditures: *Summary:* Based on information provided by the FSSA for FY 2012 and certain assumptions, this bill could (1) increase FSSA administrative expenditures (\$933,000); (2) reduce state TANF expenditures for custodial adults who are ineligible for TANF benefits (\$521,000); (3) increase FSSA expenditures to finance the costs of negative initial drug tests (\$371,500); and (4) increase FSSA computer system costs to track individuals' drug-testing records (between \$400,000 and \$600,000) during FY 2016 and FY 2017.

This bill could also result in an increase in Medicaid costs to provide outpatient counseling services and inpatient detoxification services for individuals who test positive on a drug test and demonstrate a medical necessity for substance abuse treatment. The state could also see an increase in Healthy Indiana Plan (HIP) enrollment (and costs) for low-income families with children who are no longer eligible for Medicaid through TANF and enroll in HIP for substance abuse treatment coverage. Actual increases in state costs and HIP enrollment are indeterminable.

Further, the FSSA reports administering the Substance Abuse Subtle Screening Inventory test (SASSI) to TANF recipients will increase state expenditures to purchase the tool and will increase workload to train staff to administer the test. The bill also requires the FSSA to collect data to ensure the SASSI test does not discriminate based on race, ethnicity, or sex. The administrative workload of implementing the bill could be distributed across local FSSA offices in the state's 92 counties. To the extent increases in workload are absorbed by existing local FSSA staff, the estimated administrative expenses of implementing the bill could

be less than what is reported above.

Additional Information: As a condition of receiving TANF benefits, recipients will be administered the SASSI test. Individuals who receive SASSI scores that indicate a high probability of substance abuse or dependence will be placed in a testing pool from which FSSA is required to test at least 50% of the individuals. The bill specifies that an individual in this pool can only be tested once.

As a condition of continuing to receive TANF benefits after a positive initial drug test, individuals must show they are enrolled in, or on a waiting list for participation in, a substance abuse treatment program. Individuals who do not seek treatment are ineligible for TANF benefits for three months, but can reapply. Individuals who refuse to take either the SASSI test or a drug test are ineligible for benefits, but the bill is silent as to how long they are ineligible.

Individuals who test positive and demonstrate enrollment in a substance abuse treatment program can continue to receive TANF benefits, but are subjected to monthly drug tests. These individuals will have four months to test negative on two consecutive drug tests. Failure to do so results in three months of benefit ineligibility for the individual and any children on whose behalf they receive TANF benefits. Individuals who test negative on two consecutive drug tests will be placed in a reasonable suspicion pool, 50% of which will be tested monthly.

Anyone who is determined ineligible for TANF benefits for a three-month period can reapply after the ineligibility period is over. During this period of ineligibility, the individual cannot receive TANF benefits for themselves or for dependent children. The ability to utilize a protective payee is not afforded to individuals who are ineligible for benefits for 3 months.

Upon reapplication after the benefit ineligibility period, all individuals will be subjected to a drug test and must test negative to receive TANF benefits. Failure to do so results in permanent ineligibility for TANF benefits for the applicant and the applicant's dependents as long as the dependents live with the ineligible individual.

In instances where a custodial parent is permanently ineligible for benefits, either they or the DFR will select an immediate family member as a protective payee. All individuals who are selected as a protective payee will be required to pass a drug test in order to receive benefits on the behalf of eligible children. Selected protective payees will pay the costs of the required drug test.

It is assumed that if at any time an individual in the reasonable suspicion pool fails a drug test, they will be required to seek substance abuse treatment again. Further, if they participate in substance abuse treatment, it is also assumed they are subject to monthly drug testing and will have four months to test negative on two consecutive drug tests.

Testing Costs: Under the bill, once an individual tests positive for drugs on a drug test, they are required to reimburse the DFR for all drug tests required under the program. It is assumed the state is responsible for the costs of any drug tests that are administered to individuals who are selected for and pass their initial drug test.

The bill also requires benefits to be withheld to finance the costs of any subsequent drug tests for individuals who fail the initial drug test. If the state has exceeded the federally capped administrative expenses under

the TANF program, the state may not be able to use the federal portion of withheld TANF benefits to offset the testing costs. As a result, state expenditures could increase to finance the costs of drug tests that are not fully compensated from withheld benefits.

Under the bill, the state can only withhold benefits to finance the cost of drug tests after the test has been administered. Because of this timing, the state may never recover some of the costs of drug testing, especially in instances where an individual is determined to be permanently ineligible for benefits.

The total estimated costs of all drug tests during the first two years of implementation is \$1.05 M, with \$348,000 in state costs for negative initial drug tests and an estimated \$23,500 in amounts that may be difficult to collect from benefit withholdings. It is not known what percent of the remaining \$678,500 in subsequent drug tests will be recovered by the state.

Protective Payee: The bill affords the ability to establish a protective payee only in instances where an individual is permanently ineligible for TANF benefits. For individuals who are ineligible for benefits for a 3-month period, benefits to dependent children could be disrupted. If this occurs, the state could be in violation of federal law. Any potential federal ramifications for denying benefits to dependent children are unknown.

Treatment Cost: The number of individuals who would seek substance abuse treatment as opposed to dropping TANF benefits is indeterminable. However, individuals with dependent children would be eligible for substance abuse treatment through Medicaid. With a diagnosis that indicates the medical necessity for substance abuse treatment, Indiana Medicaid would reimburse for outpatient counseling services only. With the exception of inpatient detoxification services, no inpatient drug abuse treatment is reimbursed.

Currently, TANF adults are categorically eligible for Medicaid as a result of their TANF eligibility. If they are no longer eligible for Medicaid through TANF, low-income families with children would remain eligible - custodial adults would have the option of participating in the HIP Medicaid waiver. After December 31, 2014, adults who lose custody of their children may also lose access to Medicaid services, depending on their income level and on the actions of the Centers for Medicare and Medicaid Services (CMS) and the General Assembly with regard to the extension of the HIP waiver or expansion of the Medicaid-covered population in Indiana under the provisions of the Affordable Care Act (ACA) of 2010.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 33% for most current services. Current Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 67%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%.

TANF Program: TANF assistance is shared between the state and federal governments. However, the federal share is provided through a capped block grant allocation with a state maintenance-of-effort (MOE) requirement. TANF block grant allocations are determined on a formula basis with increased flexibility for their use by the states over what was permitted under the prior Aid to Families with Dependent Children (AFDC) Program. The state contributes roughly 1/3 of the benefits in the TANF program.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: FSSA, DCS.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: FSSA TANF Recipient Data for FY 2012; Feldstein, S. W. & Miller, W. R (2007) *Does the subtle screening for substance abuse work? A review of the Substance Abuse Subtle Screening Inventory (SASSI)*. *Addiction*, 102: 41-50; Lazowski, Linda E. & Miller, Franklin G. & Boye, Michael W. & Miller, Glenn A. (1998) *Efficacy of the Substance Abuse Subtle Screening Inventory - 3 (SASSI-3) in Identifying Substance Dependence Disorders in Clinical Settings*. *Journal of Personality Assessment*, 71, Issue 1: 114-128; Joe Follick, Florida Department of Children and Family, (850) 413-0771; Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions*, Gene Faulk, Specialist in Social Policy, October 11, 2011; Grant Krevda, FSSA.

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